

TOLLING AGREEMENT

THIS TOLLING AGREEMENT ("Tolling Agreement") is made and effective on _____, 2020 by and between Congressman Elton Gallegly ("Donor") and California Lutheran University ("CLU") (sometimes individually "Party," and collectively the "Parties").

WHEREAS, on October 3, 2017 the Parties entered into a written Gift Agreement ("Gift Agreement"), whereby Donor gifted certain papers and related materials and furniture to CLU, and CLU accepted such items, on the terms and conditions set forth in such Gift Agreement; and

WHEREAS, in accordance with the Gift Agreement, CLU undertook certain obligations to Donor, including but not limited to a promise to ~~arrange, preserve, and catalog~~ the Archival Collection (as defined in the Gift Agreement) according to generally accepted principles of archival administration and practice, wherein CLU would digitize or use any technological substitute thereof to preserve and provide access to the Archival Collection (collectively "digitization of the Archival Collection"); and

WHEREAS, Donor alleges that CLU has failed to digitize the Archival Collection and to meet other commitments in the Gift Agreement and has breached its contractual obligations related thereto (the "Dispute"); and

WHEREAS, the Parties agree that it is in their best interests to attempt to reach a resolution of this Dispute and to avoid litigation, while concurrently preserving each party's respective position and legal rights, by tolling any applicable statute of limitations relative to the Dispute;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties agree as follows:

1. Agreement. This Tolling Agreement shall broadly apply to and shall toll any applicable statutes of limitation as to any and all claims, controversies, disputes and causes of action (collectively "Claims") whatsoever (whether in contract, tort or otherwise) based upon, arising out of or in any way related to the Dispute and the Gift Agreement.
2. Effective Date. This Tolling Agreement shall be effective as of the date set forth in the first paragraph above (the "Effective Date").
3. Period of Tolling Agreement. This Tolling Agreement shall remain in place from the Effective Date until the earlier of the following: (a) the expiration of sixty (60) days from the date one Party delivers (via hand delivery or United States mail) to the other Party, notice in the manner required by this Agreement, that it is terminating this Tolling Agreement; or (b) the expiration of sixty (60) days from the date a final, non-appealable judgment has been entered resolving all issues in the Dispute.
4. Computation of Statute of Limitations. The period that this Tolling Agreement is in effect shall not be included in determining the applicability of any applicable statute(s) of limitations in any action brought by Donor against CLU concerning the Claims.

5. Claims and Defenses. Nothing in this Tolling Agreement shall affect any claim or defense available to either Party as of the Effective Date of this Tolling Agreement, and this Tolling Agreement shall not be deemed to revive any claim or defense that may already be time barred as of the Effective Date. Nothing in this Tolling Agreement or in the circumstances giving rise to this Tolling Agreement shall be construed as acknowledgement by either Party that any claim or defense has or has not heretofore been barred by the statute of limitations, laches or other defense based upon lapse of time.
6. No Admissions. This Tolling Agreement shall not operate as an admission of liability by either Party. Neither this Tolling Agreement nor any action taken hereunder shall be offered or received in evidence in any action or proceeding as an admission of liability or wrongdoing of any nature on the part of either Party.
7. Modifications. This Tolling Agreement constitutes the entire agreement between the Parties on the issues addressed herein, and may be modified, amended or supplemented only by a written instrument signed by both Parties hereto.
8. Notice. Notice with respect to this Agreement may be given by hand delivery or regular postage prepaid first-class mail through the United States Postal Service as follows:

To Donor:

Congressman Elton Gallegly
1 Vista Hermosa Drive
Simi Valley, CA 93065

With a courtesy copy to:

Law Office of Anthony H. Trembley
2801 Townsgate Road, Suite 200
Westlake Village, CA 91361

To CLU:

Office of the President
California Lutheran University
60 West Olsen Road, #1300
Thousand Oaks, CA 91360-2787

Notice delivered via hand delivery will be deemed communicated as of the date of actual receipt.

9. Construction. This Tolling Agreement shall be construed and interpreted fairly in accordance with the plain meaning of its terms, and there shall be no presumption or inference against the Party drafting this Tolling Agreement in construing or interpreting the provisions hereof.
10. Multiple Counterparts. This Tolling Agreement may be executed in multiple counterparts, each of which shall be deemed an original. Each Party agrees to transmit a copy of the executed Tolling Agreement to the other Party by hand

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10. Multiple Counterparts. This Tolling Agreement may be executed in multiple counterparts, each of which shall be deemed an original. Each Party agrees to transmit a copy of the executed Tolling Agreement to the other Party by hand delivery or postage prepaid United States first class mail within three (3) days of execution by such Party of the Tolling Agreement.
11. Applicable Law. This Tolling Agreement is entered into in the County of Ventura and shall be construed, interpreted and governed in accordance with California law.
12. Successors, Heirs and Assigns. This Tolling Agreement shall be binding upon the Parties hereto and their respective successors, heirs and assigns.
13. Severability. If for any reason any provision of this Tolling Agreement is determined to be invalid or unenforceable, such provision shall be enforced to the extent permissible under law, and such invalidity or unenforceability shall not impair the operation of or otherwise affect those portions of this Tolling Agreement which are valid and enforceable.

IN WITNESS WHEREOF, the undersigned Parties agree to the foregoing terms.


CONGRESSMAN ELTON GALLEGLY


Honorable Elton Gallegly

DATE: 9/25/20

Approved as to Form:

Law Office of Anthony H. Trembley


By: Anthony H. Trembley
Legal Counsel to Donor

DATE: 9/26/2020

CALIFORNIA LUTHERAN UNIVERSITY


President Lori E. Varlotta, Ph.D.

DATE: 9/25/2020

Approved as to Form:

Novus Law Firm, Inc.


By: Natasha J. Baker
Legal Counsel to CLU

DATE: 9/25/2020